I negate and agree with the affirmative value. The standard is net benefits:

First, the moral equality of persons demands a net benefits approach to policy making. **Rakowski[[1]](#footnote-1) furthers:**

On one side, it presses toward the consequentialist view that **individuals' status as moral equals requires that the number of people kept alive be maximized. Only in this way**, the thought runs, **can we give due weight to the fundamental equality of persons; to allow more deaths when we can ensure fewer is to treat some people as less valuable than others.** Further, killing some to save others, or letting some die for that purpose, does not entail that those who are killed or left to their fate are being used merely as means to the well-being of others, as would be true if they were slain or left to drown merely to please people who would live anyway. They do, of course, in some cases serve as means. But they do not act merely as means. Those who die are no less ends than those who live. **It is because they are also no more ends than others** whose lives are in the balance **that an impartial decision-maker must choose to save the more numerous group**, even if she must kill to do so.

Second, governments are not bound by an act-omission distinction; therefore, they must always act to ensure the best consequences. **Sunstein** and **Vermuele[[2]](#footnote-2) write**:

In our view, any effort to distinguish between acts and omissions goes wrong by overlooking the distinctive features of government as a moral agent. If correct, this point has broad implications for criminal and civil law. Whatever the general status of the act/omission distinction as a matter of moral philosophy**, the [act/omission] distinction is least impressive when applied to government, because the most plausible underlying considerations do not apply to official actors** The most fundamental point is that, **unlike individuals, governments always and necessarily face a choice between or among possible policies for regulating third parties. The distinction** between acts and omissions may not be intelligible in this context, and even if it is, the distinction **does not make a morally relevant difference.** Most generally**, [the] government is in the business of creating permissions and prohibitions. When it explicitly or implicitly authorizes private action, it is not omitting to do anything or refusing to act.**

Third, policymaking cannot be deontological because governments must try to maximize the protection of rights for their citizens. In a conflict scenario, deontology values the rights of one person over the rights of many people because it holds that every person has infinite worth that ought not be violated. However, governments are equally obligated to every citizen as there is no relevant distinction amongst citizens—thus a deontological stance would treat citizens unequally, violating the government’s obligation to its people.

The resolution is a question of what we ought to do, meaning it is inherently forward looking. It doesn't ask if what we have done is moral, but rather if what we WILL do is moral. The implication is that I will defend a forward-looking theory of consequentialism, not a backwards one.

My thesis is that treating juveniles as adult’s causes more harm than it does good.

Contention: Recidivism

Contention \_\_\_ is recidivism: Treating juveniles as adults encourages recidivism. This is empirically proven. **Hunt**[[3]](#footnote-3) **argues**:

Furthermore, there is no noticeable reduction of repeat offending. In contrast, [**recent] research [conducted in Florida] indicates that transferred young offenders sentenced in criminal court are more likely to re-offend than young offenders retained and adjudicated in juvenile court.** A 1991 U.S. Department of Justice study found that youths sentenced by New York and New Jersey criminal courts were more frequently re-arrested than youths adjudicated in New York and New Jersey juvenile courts. Moreover, they were re-arrested sooner following their criminal court convictions than youths appearing in juvenile court who were re-arrested following their juvenile court adjudications. Recent research conducted in Florida yielded similar results. **Researchers compared recidivism outcomes of youths transferred to criminal court and sentenced to adult incarceration with youths retained in the juvenile justice system and held in juvenile facilities. The study matched** youths in **the transferred group with** youths in **the non-transferred group on seven variables [such as].** These variables included: **age, race, gender**, offense for which the youth was transferred, number of counts of the charges on which the youth was transferred, number of prior referrals to the juvenile justice system, **and the most serious prior offense. Results** of the Florida research **revealed that** transferred youths commit more offenses upon release from incarceration than juveniles not transferred. **Upon release from prison, 30% of the transferred youths** studied **were re-arrested; 93% of these arrests were for felonies. In contrast, upon release from juvenile facilities, only 19% of the non-transferred youths in the study were re-arrested. Of the 19%, 85% of the youths were re-arrested on felony charges. These results suggest that incarcerated transferred youths may pose a greater threat to society than young offenders not transferred** because they are more likely to re-offend upon release and more likely to commit more violent offenses than non-transferred youths.

End quote. Basically, every credible study on the issue in the last 15 years has concluded negative. **Redding writes[[4]](#footnote-4)**

In sum, **to date, six large-scale studies have been conducted on the specific deterrent effects of transfer. These studies used large sample sizes** (between 494 and 5,476 participants), **different methodologies** (natural experiment across two juris-dictions, matched groups within the same jurisdictions, or statistical controls), **multiple measures of recidivism, and were conducted in five jurisdictions** (Florida, New Jersey, New York, Minnesota, Penn-sylvania) **having different types of transfer laws** (automatic, prosecutorial, or judicial). **The strong consistency in results across the studies is all the more compelling given that they used different samples and methodologies, thereby providing a degree of convergent validity for the findings. All of the studies found higher recidivism rates among offenders who had been transferred to criminal court, compared with those who were retained in the juvenile system.**

End quote. Recidivism outweighs aff offense on:

1) Magnitude: violent crime, so it causes more harm

2) Reversibility: you can bounce back from aff impact, but its harder to recover from being murdered or raped

3) Scope: violent crimes affect the families of those who are victimized whereas aff impact doesn't

4) Probability/quantifiability: neg impact is verified by empirics; whereas we don't really know what the true aff impact is. Cross apply this to my other contentions as well.

Contention: Recidivism -- Trials

Contention \_\_\_ is recidivism:

Trying juveniles as adults increases recidivism. Redding writes:

A higher percentage of youth who were tried for robbery in criminal court were rearrested (91 percent) than those tried for robbery in juvenile court (73 percent). Of youth who were rearrested, those tried in the criminal court also were rearrested sooner and more often. However, there were no differences in recidivism rates (in terms of the percent rearrested, rearrest rate, and time to rearrest) for burglary offenders tried in the criminal court versus those tried in juvenile court. The findings on robbery offenders suggest that**criminal court processing alone, irrespective of whether youth are incarcerated in juvenile or adult facilities, produces a higher recidivism rate. This finding is emphasized by the parallel finding that even those youth sentenced to probation in criminal court had a substantially higher recidivism rate than those incarcerated in the juvenile justice system**(see also Mason and Chang, 2001). Juveniles with the highest recidivism rates were those who were incarcerated after being tried in the criminal court. **The study indicated that, overall, youth adjudicated in juvenile court had a 29-percent lower risk of re-arrest than those tried in criminal court.**Drug offenses were the one exception. Criminal court adjudication substantially reduced the risk of rearrest in those cases.

End quote. Redding 2 continues, providing more analytical and empirical reasons why trying juveniles as adults increases recidivism:

**Findings from several studies** (Fagan, 1996; Fagan, Kupchik and Liberman, 2003) **show that criminal court processing alone, even without the imposition of any criminal sentence, increases recidivism. Juveniles’ sense of injustice at criminal court processing may cause them to react defiantly by reoffending, and it may further harden an emergent criminal self-concept** (see Sherman, 1993; Thomas and Bishop, 1984; Winner et al., 1997). **“The concept of fairness appears to be an important variable in an individual’s perception of sentence severity and its subsequent rela­tionship to future recidivism”** (Corrado et al., 2003:183). **Furthermore, it appears that many adolescents with conduct disorders already have a sense of having been dealt an unfair hand by authority figures** (Chamberlain, 1998). **Bishop and Frazier (2000) interviewed 95 serious and chronic juvenile offenders in Florida, roughly half of whom were transferred to the criminal court and were incarcerated in adult correctional facilities, and half of whom had been adjudicated in the juvenile court and were incarcerated in maximum-security juvenile facilities. According to the authors, many of the juveniles felt a strong sense of injustice about being tried as adults.**

End quote. Recidivism outweighs aff offense on:

1) Magnitude: a) hurting morally innocent people; b) violent crime, so it causes more harm

2) Reversibility: you can bounce back from aff impact, but its harder to recover from being murdered or raped

3) Scope: violent crimes affect the families of those who are victimized whereas aff impact doesn't

4) Probability/quantifiability: neg impact is verified by empirics; whereas we don't really know what the true aff impact is

contention: prison abuse

Contention \_\_\_\_ is prison abuse:

Juveniles in adult facilities are more likely to be abused by inmates and staff. **Austin et al write[[5]](#footnote-5):**

"Forst and colleagues (1989) reported that, although youth in adult and [juvenile facilities] were equally likely to be victims of property crime while [incarcerated], juveniles in adult facilities were more likely to be violently victimized. **In 1988, 47 percent of juveniles in prisons (compared with 37 percent of youth in juvenile facilities) suffered violent victimization, including violence at the hands of staff.** Sexual assault was five times more likely in prison, **beatings by staff [were] nearly twice as likely, and attacks with weapons were almost 50 percent more common in adult facilities.** Clearly, safely housing juveniles in adult fa- cilities and protecting younger inmates from predatory, older inmates are im- portant issues for correctional administrators.

End quote. Frost et al[[6]](#footnote-6) continue:

**A 1989 study** by a team of researchers compared how youth reported being treated at a number of juvenile training schools, with those serving time in adult prisons.14 **[found that] Five times as many youth held in adult prisons answered yes to the question "has anyone attempted to sexually attack or rape you" than those held in juvenile institutions. Close to ten percent of the youth interviewed reported a sexual attack, or rape attempt had been levied against them in the adult prisons, while closer to one -percent reported the same in the juvenile institution.**

End quote. The aff impact is specific to protecting the juvenile, but my impact is worse for the juvenile charged with a violent felony on

1) Magnitude: being abused and raped is worse for the juvenile than the aff impact on scale

2) Durability: rape, assualt, and abuse last longer than the aff impact

3) Reversibility: CA analysis from c1. same logic

Contention: Suicide

Contention \_\_\_\_ is suicide:

Treating juveniles as adults increases the likelihood that juveniles will commit suicide. Schiraldi and Zeidenberg[[7]](#footnote-7) write:

The most recent American study on juvenile suicide in adult institutions and youth facilities was done in 1980. Funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), **Michael G. Flaherty, a researcher with the Community Research Forum at the University of Illinois surveyed the number of suicides in a thousand jails and juvenile detention centers. The study found that the suicide rate of juveniles in adult jails is 7.7 times higher than that of juvenile detention centers. In stark contrast, the survey also found that the juvenile institution suicide rate was lower than that of the general population. A more recent report on prison suicides completed by the British Prison Reform Trust supports the findings of the Flaherty study.** Analyzing data collected by Her Majesty's Prison Service, **the Trust found that while people aged 15 to 21 made up only 13 percent of the prison population, they comprised 22 percent of all suicide deaths.** These studies confirm what law enforcement officials have been telling Congress: that children are abused more regularly and driven to desperation in prison facilities more quickly. Adult prisons and jails are not equipped to protect young offenders from these risks as well, they are more likely to fall through the cracks.

End quote. The aff impacts to protecting the juvenile who is charged with a violent felony, but suicide outweighs the aff impact on:

1) reversibility: juveniles can appeal their decisions, but can't come back from the dead

2) magnitude: death is the ultimate harm because once you are dead, you can't do anything

NR OVerview

As an overview to the round:

When evaluating the framework debate, you should sift through the arguments in the following order:

First, arguments about the functionality or theoretical legitimacy of the standard come first. Frameworks exist to provide clear decision calculus, thus, even if the framework is substantively legitimate, if it cannot be used a weighing calculus, it is functionally useless. Functionality comes first because we need to actually be able to use the standard to determine a winner.

Second, if both standards are functionally legitimate, the next way you weigh is by seeing which arguments link back to governmental obligation. The actor in the resolution is a government, as it is the only actor capable of treating juveniles as adults. Thus, even if individuals ought to follow one moral theory or the other, it doesn't mean governments ought to. Whoever has the strongest link back to governmental obligation should thus win the framework debate.

Third, if both of us are linking back to government obligation and that debate is irresolvable, evaluate arguments based off of strength of link. There is no way to evaluate multiple dropped arguments that are not responsive to each other, so instead of intervening and deciding which arguments you like best, prioritize the arguments that were completely untouched in the round.

Empirics > Analytics

1) Net benefit debates require empirical evidence. **Gostin[[8]](#footnote-8) writes**:

**Any** rigorous **weighing of benefits** and burdens **demands a recognition that the essence of the argument is not the claims and counterclaims of utility** and disutility. **Rather, the core issue is the objective evidence that supports or refutes those claims. Thus, the quality of the relevant scientific evidence is essential for utilitarian balancing. Each claim of value** or disvalue **must be supportable by objective evidence obtained through the scientific method. Although science** surely **does not offer an infallible means for acquiring knowledge, it remains the most reliable** and the most widely accepted **method. Scientific research systematically identifies a problem, gathers data,** formulates a hypothesis, **and tests it empirically.** The quality of the scientific method, moreover, is subject to peer review.

End quote. Thus, prefer empirics to analytics because empirics are more objective evidence, which Gostin explains is crucial to utilitarian balancing.

2) If empirics contradict the analytics, prefer empirics to analytics because empirics provide real world verification for the analytics. All the analytical explanations in the world are useless if the human experience disproves them.

Analytical warrant for recidivism

There are many analytical explanations for why juveniles treated as adults are more likely to reoffend. **Pagnanelli**[[9]](#footnote-9) **explains**:

Instead of rehabilitating, the criminal system may encourage recidivism. n68**Juveniles who are incarcerated are more likely to "learn social rules and norms that legitimate domination, exploitation, and retaliation" from the surrounding adult criminals.** The criminal system also may cause juveniles to feel exploited and humiliated by the judicial process, and stigmatized by society. **A criminal conviction may also encourage recidivism by severely obstructing the convicted juvenile's future educational, employment, and social opportunities.** A juvenile who has been tried in a criminal court often feels unjustly treated, and juveniles with this negative perception of the adjudication process are more likely to adopt a "delinquent self-concept" which also causes them to re-offend.  **Extensive interviews with juvenile offenders in the adult criminal system reveal that they view the system as** "duplicitous and **manipulative, malevolent** in intent**, and indifferent to their needs."** These reactions are wholly "inconsistent with compliance to legal norms," n74 andhighlight a very potent negative effect on incarcerated juveniles which logically contributes to increased rates of recidivism post-transfer.

End quote. Also, this effect is expected for four independent reasons. **Redding** writes:

**Experts**(see Bazemore and Umbreit, 1995; Myers, 2003; Thomas and Bishop, 1984; Winner et al., 1997)**have identified several possible explanations for the higher recidivism rates of violent juvenile offenders tried in criminal court as compared to those adjudicated in juvenile court: The stigmatization and other negative effects of labeling juveniles as convicted felons, the sense of resentment and injustice juveniles feel about being tried and punished as adults, the learning of criminal behavior while incarcerated with adult offenders, [and] the decreased focus on rehabilitation and family support in the adult system. A felony conviction also results in the loss of a number of civil rights**and privileges (see Redding, 2003),**further reducing the opportunities for employment and community reintegration.**

Bishop Study

Donna M. Bishop, Charles E. Frazier, Lonn Lanza-Kaduce and Lawrence Winner; The Transfer of Juveniles to Criminal Court: Does it Make a Difference?; Crime and Delinquency; 1996. [Kumar].

Adjusted arrest rates were calculated by computing numbers of rearrests within each group divided by days at risk, then multiplying by 365.25 to produce yearly rates of offending. For the total transfer group (n=2,738), the rearrest rate was .54 offenses per person year of exposure, compared to a rate of .32 for the total nontransfer group (Z=13.60, p<.001). Looking only at those who reoffended during the follow-up period (808 transfers, 528 nontransfers), the adjusted rate of rearrest in the transfer group was 1.90 offenses per person year of exposure, compared to a rate of 1.70 for the nontransfer group (Z=3.09, p=.002). The next question we addressed was whether mean time to failure differed across groups. For those 808 subjects who reoffended in the transfer group, mean time to failure adjusted for time at risk was 135 days; that is, the average elapsed time on the street prior to committing a new offense for those who reoffended in the transfer group was 135 days. For the nontransfer group, the average time to failure was 227 days. The difference across groups was significant (Z=10.57, p<.001). Thus not only were transfers more likely to reoffend but they were likely to reoffend more quickly than their nontransfer matches. Had we been able to calculate jail time served for transfers, their time to failure would undoubtedly have been shorter, and the differences between groups even greater. Still another way of exploring similarities and differences in recidivism across the two groups was to examine the severity of rearrest offenses. For this portion of our analyses, we restricted our attention to the first rearrest for each individual who reoffended in the two groups and calculated the proportions who committed felonies versus misdemeanors. Of the transfers who were rearrested, 93% were arrested for felony offenses. For persons rearrested in the nontransfer group, 85% were arrested for felony offenses. Although the difference across groups in proportions arrested for felonies was small, it was statistically significant (Z=4.075, p<.001). A second way of comparing severity of reoffending across the two groups involved pre-post comparisons--that is, examining offense transitions for each individual who reoffended to see how the severity of the first rearrest compared to the arrest that put the youth into the study. Among the transfers, 5% of those who reoffended showed some improvement in that, although they were transferred for a felony offense, they were subsequently arrested for a misdemeanor. Among the nontransfer matches, 11% showed improvement, transitioning from a felony arrest in 1987 to a subsequent misdemeanor offense. Again, the difference across groups was statistically significant (Z=-3.73, p=.01).

Donna Bishop: Associate Professor, Department of Criminal Justice and Legal Studies, University of Central Florida

Charles Frazier: Professor, Department of Sociology, University of Florida

Lonn Lanza-Kaduce: Associate Professor, Center for Studies in Criminology and Law, University of Florida

Lawrence Winner: Lecturer, Department of Statistics, University of Florida

Crime & Delinquency (CAD), peer-reviewed and published quarterly, is a policy-oriented journal offering a wide range of research and analysis for the scholar and professional in criminology and criminal justice. CAD focuses on issues and concerns that impact the criminal justice system, including the social, political and economic contexts of criminal justice, as well as the victims, criminals, courts and sanctions.

Prefer the study because:

1) Peer reviewed

2) Large study sample--less bias

3) Crime and Delinquency is a well-respected journal; its been around since 1954

4) Professor of statistics is involved; the statistics are less likely to be incorrect

1. “Taking and Saving Lives” Columbia Law Review, Vol. 93, No. 5, (Jun., 1993), pp. 1063-1156 Published by: Columbia Law Review Association, Inc. Stable URL: http://www.jstor.org/stable/1122960 [↑](#footnote-ref-1)
2. “Is Capital Punishment Morally Required? The Relevance of Life-Life Tradeoffs,” Chicago Public Law & Legal Theory Working Paper No. 85 (March 2005), p. 17. [↑](#footnote-ref-2)
3. Cathi J. Hunt; NOTE: Juvenile Sentencing: Effects of Recent Punitive Sentencing Legislation on Juvenile Offenders and a Proposal for Sentencing in the Juvenile Court; Boston College Third World Law Journal; Book Review Editor, Boston College, Third World Law Journal; Spring, 1999. [Kumar]. [↑](#footnote-ref-3)
4. Richard Redding, Professor of Law @Chapman. Juvenile Transfer Laws: An Effective Deterrent to Delinquency? Office of Juvenile Justice and Deliquency Prevention. June 2010. <http://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf> [↑](#footnote-ref-4)
5. James Austin, Kelly Dedel Johnson, Maria Gregoriou - 2000 [Ph.D, Ph.D, M.A.], "Juveniles in Adult Prisons Jails: A National Assessment." U.S. Department of Justice.. [Kumar]. [↑](#footnote-ref-5)
6. Martin Forst, Jeffrey Fagan and T. Scott Vivona 1989 [Center for Law and Social Policy URSA [Institute San New York City Criminal Justice Agency, Center for Law and Social Policy URSA Institute San Francisco] GS. [Kumar]. [↑](#footnote-ref-6)
7. Vincent Schiraldi and Jason Zeidenberg-1997 [Funded by the California Wellness Foundation], "The Risks Juveniles Face When They Are Incarcerated With Adults" Justice Policy Institute. 1997. [Kumar]. [↑](#footnote-ref-7)
8. Lawrence O. Gostin [Professor of Public Health @ John Hopkins University School of Hygiene and Public Health Co-Director, Georgetown/Johns Hopkins Program on Law and Public Health; CDC Advisory Committee on HIV and STD Prevention] and Zita Lazzarini [Lecturer on Law and Public Health, Harvard University, School of Public Health]; “Prevention of HIV/AIDS Among Injection Drug Users: The Theory and Science of Public Health and Criminal Justice Approaches to Disease Prevention,” Emory Law Journal, Spring 1997 [↑](#footnote-ref-8)
9. CHILDREN AS ADULTS: THE TRANSFER OF JUVENILES TO ADULT COURTS AND THE POTENTIAL IMPACT OF ROPER V. SIMMONS. Enrico Pagnanelli. 2007 American Criminal Law Review. American Criminal Law Review. Winter, 2007. *44 Am. Crim. L. Rev. 175* [↑](#footnote-ref-9)